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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session on

SUMMARY RECORD OF THE 45th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 April 1998, at 10 a.m.

Chairman:	Mr. SELEBI	(South Africa)
later:	Mr. HYNES (Vice-Chairman)	(Canada)
later:	Mr. SELEBI (Chairman)	(South Africa)

CONTENTS

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF ALBANIA

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF NIGERIA

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

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GE.98-12182 (E)

The meeting was called to order at 10 a.m.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF ALBANIA

1. Mr. MILO (Albania) said that the events of the past year in his country provided a good example of the dangers of the State or its institutions violating human rights and of the lack of monitoring of the human rights standards set out in the main international instruments. For the past nine months, the current Albanian Government had been working to rebuild the country's institutions, establish public order and implement reforms: a parliamentary commission, engaged in the preparation of a draft constitution was currently discussing its chapter on human rights and fundamental freedoms. The law on the press stated that the press was free and that its freedom was protected by the State.

2. His Government was doing its best to fill the legal and institutional vacuum in the area of democratic standards that was the heritage of 50 years of communism and 7 years of transition dominated by an authoritarian Government. It was building a system based on the separation of powers and freedom of expression and movement; it was also dealing with criminality and corruption, which were obstacles that seriously hindered the right to development. In that endeavour, it was receiving valuable assistance from the United Nations, the European Union, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE).

3. Human rights were not and should not be the internal concerns of States, and their violation was a blot not only on the nation concerned but also on the entire international community. With that in mind, his Government supported the establishment of a permanent international criminal court.

4. The death penalty was a very delicate issue, and one of Albania's most crucial human rights problems. There were two aspects. Since the events in 1997, when the State had dissolved and criminality had assumed unbelievable proportions, efforts to re-establish the authority of the State had been made more difficult by the fact that so many people were armed. On the other hand, when Albania had joined the Council of Europe in June 1995, it had committed itself to freezing the carrying out of, the death penalty, pending its abolition. In the new penal code the number of provisions carrying the death penalty had been halved, to just six cases, and his Government would gradually remove the death penalty from its legislation for all peacetime offences. Moreover, a bill was being drafted that would provide for a human rights ombudsman to investigate human rights violations by the public administration and to monitor the situation of human rights in general, including the death penalty.

5. The International Bill of Human Rights was being violated in an unacceptable manner in the heart of Europe. Ethnic apartheid had been established in Kosovo, where two million Albanians, comprising 90 per cent of the region's population, were being oppressed and discriminated against by the Serbs, who constituted less than 10 per cent. The Albanians of Kosovo were being deprived of freedom of thought, speech and organization, of their political, economic, social and cultural rights, and of their right to work and to receive education.

6. The Serb authorities in Belgrade were trying to force the Albanians out of Kosovo: hundreds of thousands of them had emigrated and were living and working abroad. It was a clear-cut political platform of ethnic cleansing which was being processed in detail by Serb academicians and generals.

7. The international community had condemned the discrimination and use of violence in Kosovo, demanding the withdrawal of the special police forces and the commencement of a dialogue without preconditions. The Belgrade authorities had responded by cordoning off the villages of Kosovo, violently disrupting peaceful demonstrations, trying to begin false negotiations and appointing as a member of the Serb Government a man, Mr. Vojislav Seselj, who had promised to drive the Albanians out of Kosovo.

8. The international community should send a clear message to the Serbs that there was no one any longer who had any doubts as to their responsibility for the bloody events in the Balkans in recent years. The Albanians of Kosovo had been exercising great patience for eight years, enduring ill-treatment and humiliation in the belief that the international community was seriously committed to a peaceful resolution of the problem. The time had come to put an end to their sufferings.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF NIGERIA

9. Mr. IKIMI (Nigeria) said he hoped that the current session of the Commission would not be an occasion for an outpouring of condemnation against selected countries: no useful purpose would be served by such a confrontational approach, which was hostile, unnecessary and counterproductive. Recognition of the differences in national circumstances and experiences did not deny the efficacy of human rights as necessary standards to uphold the dignity of the person and the responsibility of the State, but it did permit a better understanding of the evolutionary process which in some countries was providing the conditions for full enjoyment of those rights and a better basis on which to extend necessary assistance and cooperation.

10. There was an urgent need for a more realistic and comprehensive strategy for international cooperation and development. As long as poverty remained the greatest violator of human rights and freedoms, those who erected human rights as a conditionality for cooperation and assistance were not serving the cause of humanity. The mechanisms for the implementation of civil and political rights had become an instrument of oppression in the hands of a few powerful nations which utilized them to further their own narrow national interests.

11. In 1994, a majority of the members of the Commission had rejected a politically motivated resolution against Nigeria's human rights record submitted by a group of Western countries led by the United Kingdom. Undeterred, the same group of countries had continued, since 1995, to sponsor a debate in the Commission on "The human rights situation in Nigeria" without taking due cognizance of the circumstances and developments in the country.

12. Although the Nigerian authorities had viewed the appointment of two thematic Special Rapporteurs on Nigeria under Commission resolution 1996/79 as

unwarranted, they had indicated their willingness to cooperate and an advance team had visited the country on behalf of the Special Rapporteurs, unfortunately involving itself in domestic politics. Although the team had abruptly ended its mission and the Special Rapporteurs had never set foot in the country, a report had nevertheless been submitted to the Commission.

13. Resolution 1997/79, pushed through the Commission by the same hostile group of States, had provided for the appointment of a country-specific Special Rapporteur on Nigeria but it had taken several months to find a candidate willing to perform the "hatchet job". His report to the Commission at its current session (E/CN.4/1998/62) was based solely on discussion with representatives of so-called human rights groups and non-governmental organizations (NGOs) based in London and Geneva. It contained preposterous allegations and its conclusions were unsubstantiated. The Commission's failure to take account of developments in Nigeria since 1995 and to respect the principles of non-selectivity, objectivity and impartiality severely undermined its credibility.

14. Support for politically motivated resolutions against Nigeria in the General Assembly had been declining for the past three years. Only three African States had voted in favour of the resolution submitted to the General Assembly at its fifty-second session and over one half of the Member States had been unable to give it their support. The vast majority of African States realized that the destabilization of Nigeria would have dire consequences for the rest of the continent and recognized the positive steps taken by Nigeria to implement its programme of transition to democratic rule and to promote human rights.

15. Those who had never suffered the brutalities of colonial rule were ill-qualified to castigate the victims of colonialism for alleged violations of human rights. Millions of people of African descent were still being denied full civil and political rights, let alone social, economic and cultural rights, in some of the countries that were dictating what they perceived to be acceptable standards of human rights. The current anti-Nigeria campaign was a calculated attempt to divide and rule and a continuation of the historic ill-treatment of the peoples of Africa.

16. Any objective analyst of the situation in Nigeria would have reported certain major steps taken since 1995 to promote human rights and democracy. Six new States and 182 new Local Government Areas had been created to bring government closer to the grassroots. A National Human Rights Commission headed by a retired Justice of the Supreme Court had been established to investigate and assist victims of alleged human rights violations and had already achieved some remarkable results. The 1987 Civil Disturbances Act had been amended so that verdicts of the Special Tribunal could be appealed to a higher tribunal and the military members of the Special Tribunal had been removed.

17. Decree No. 2 of 1984 had been amended to permit the periodic review of cases of persons detained without trial by a Review Committee comprising the Attorney-General, the Inspector-General of Police and the Chief of General

Staff. Decree No. 4 of 1994, which had set aside court jurisdiction to issue writs of habeas corpus for persons detained under Decree No. 2 of 1984, had been repealed.

18. The people's response to the Federal Government's programme of transition to democratic rule had been overwhelming and large numbers had participated in the recent local government and State Assembly elections. National Assembly elections were scheduled for 25 April 1998 and the last round of elections for State Governors and the President would be held on 1 August 1998.

19. The Commonwealth Heads of Government had endorsed Nigeria's programme of transition to democratic rule at their meeting in Edinburgh in November 1997 and the European Union, at its bi-annual review meeting in December 1997, had looked forward to its successful implementation by the set date of 1 October 1998. Yet States that had been parties to both those decisions were adopting incompatible positions at the Commission.

20. Nigeria's commitment to democratic governance was not a response to external pressure. The path of democracy was one that Nigerians had chosen voluntarily and would follow at their own pace. It was therefore unacceptable that certain powerful nations persisted in attempting to dictate to Nigeria what system of government it should operate and which leaders it should choose. That trend was regrettably more pronounced in the European Union, where a former colonial Power was thought capable of speaking authoritatively on Nigeria and allowed to continue meddling in its internal affairs.

21. Nigeria had formally protested against the European Union appropriation of a sum of 3 million ECUs in its budget for the 1998 financial year for so-called pro-democracy activities in Nigeria, which were in reality subversive activities. That initiative had also been masterminded by a member of the United Kingdom Parliament. His Government viewed such funding as a deliberate attempt to cause disaffection and to instigate a crisis. Institutions and individuals currently engaged in activities within or outside the country that endangered the Nigerian State or promoted subversion and terrorism must be prepared to face the consequences.

22. As the world's most populous black nation, Nigeria was aware of the aspirations vested in it by the countries of Africa and by peoples of colour throughout the world. President Clinton had recently acknowledged Nigeria's role in restoring peace in Liberia and reinstating the legitimate Government in Sierra Leone. Nigeria would never hesitate to commit its resources to the fulfilment of its obligations to Africa, the black race and the international community.

23. It had observed with deep concern, however, recent policy statements indicating the emergence of a calculated strategy to dictate to Africans what their rights, interests and aspirations should be, for example through a foreign-financed radio station or an Africa Crisis Response Force under the tutelage of foreign powers.

24. Instead of preaching to Member States, a hostile posture which any self-respecting sovereign State would vehemently resist, the Commission should

take a comprehensive view, stressing the promotion and protection of human rights but recognizing complexities in their application. A few powerful countries should not be allowed to use subjective criteria as yardsticks to judge, condemn and malign others and to project their narrow foreign policy interests. Consultation and dialogue offered immense potential for influencing political leaders and enhancing international relations. In particular, he appealed to the Commission to disregard the reports of the Special Rapporteur on Nigeria, deny support to any resolution against his country and remove the reference to the situation of human rights in Nigeria from its agenda.

25. Mr. Hynes (Canada), Vice-Chairman, took the Chair.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 10) (continued) (E/CN.4/1998/3 and Corr.1, 9, 12-15, 55-67, 68 and Add.1-3, 69-73, 113, 114, 126, 127, 130, 132, 138-140, 142, 143, 147-150, 152, 154, 163 and 164; E/CN.4/1998/NGO/7, 13, 39, 40 and 101; A/52/472, 476, 479, 484, 486 and Add.1/Rev.1, 493, 505, 510 and 522)

26. Mr. ROSSI (International Association for Religious Freedom) said that, in Saudi Arabia, religious freedom and many other freedoms were either restricted or non-existent. At the last session of the Sub-Commission, he had referred to President Scalfaro of Italy having had to cut short an official visit to Saudi Arabia because he had not been able to fulfil his religious duties on a Sunday. The representative of Saudi Arabia had replied that his Government was ready to engage in a discussion on all constructive points of view, provided it was conducted in an objective and impartial way. The representative had stated that the Saudi Constitution was based on Shariah law, and that all human rights, including religious freedom, were respected in accordance with the regulations in force.

27. While the Saudi Government's openness to discussion was most welcome, it had to be recognized that many of the rules and regulations based on Shariah law did not respect the human rights set out in the Universal Declaration. The death penalty for Muslims who changed their religion was clearly in conflict with the Universal Declaration, but it was also in contradiction to the teachings of the Koran, which declared full freedom of religion for all and did not stipulate the death penalty for apostasy. The Saudi authorities declared that no religion but Islam could be publicly practised in the country, although the fact that hundreds of thousands of foreign Christians were unable to practise their religion freely and had no church in which to do so was clearly at odds with the teachings of the Koran and the practice of the Prophet.

28. The Koran considered Christians, Jews and others to be believers and, in the Prophet's time, they had had their places of worship and were free to practise their religion in Arabia. The Saudi authorities stated that the country should be regarded as one great mosque and that it was therefore

reserved for Islam, but the Prophet had permitted Christian delegations whom he had received in Medina to celebrate their divine service in its mosque. It was highly desirable, therefore, that Saudi Arabia should state that it accepted the Universal Declaration as the other Muslim countries had done, and that it should present an authentic image of Islam as the Prophet had preached and practised it.

29. He welcomed the fact that the Sudan had signed the International Covenant on Civil and Political Rights, and hoped that it would consequently repeal article 126 of its penal code, which seriously restricted the religious freedom of Muslims by stating that any person maintaining his renunciation of the faith was punishable by the death penalty.

30. Ms. PROUVEZ (International Commission of Jurists) called on the Commission to take appropriate action to ensure that the wave of brutal killings in Algeria was fully investigated. The Algerian Government's inability to protect its civilian population and investigate the crimes committed against it had exacerbated the breakdown of law and order.

31. It was essential that the Commission should act on the recommendation of the Sub-Commission and consider human rights violations in Bahrain under the current agenda item, since the human rights situation in that country continued to deteriorate.

32. She urged the Government of Mexico to take action to end the impunity granted to those who had murdered and attacked human rights defenders, journalists, indigenous leaders and representatives of political parties and churches, as well as the perpetrators of enforced disappearances, arbitrary arrests and detentions, torture and cruel, inhuman or degrading treatment and discrimination against indigenous people.

33. Finally, she urged the Commission to take appropriate action regarding gross violations of human rights in Turkey, especially in the south-east part of that country. Visits by the Special Rapporteurs on extrajudicial. summary or arbitrary executions, on the question of torture and on the independence of judges and lawyers and by the Working Group on Enforced or Involuntary Disappearances should take place as soon as possible, with the permission of the Turkish Government.

34. Ms. ELKAIM (Asian Buddhist Conference for Peace) said that the peace agreement signed on 2 December 1997 by the Government of Bangladesh and the Juna Samhati Samiti (JSS) had addressed a decade-long political crisis in the Chittagong Hill Tracts of Bangladesh in which the indigenous Jumma people had been subjected to heinous violations of their human rights by those who had settled in the region. As recently as 9 April 1998, settlers had burnt houses in the area belonging to Jumma refugees returning from Tripura, injuring 12 people. Persecution of the Jumma people by the settlers continued, with false cases being lodged against student activists. She also wished to draw the Commission's attention to the wave of people unjustly claiming refugee status in a number of countries by declaring false affiliation with the JSS on the basis of fabricated documents.

35. Mr. NDIAYE (Special Rapporteur on extrajudicial, summary or arbitrary executions), said that his report (E/CN.4/1998/68 and Corr.1 and Add.1, 2 and 3) covered situations involving violations of the right to life in 86 countries spanning all continents and races. Despite 122 urgent appeals on behalf of 3,720 individuals and groups in 44 countries, the lives of members of certain ethnic groups and of indigenous or religious communities were increasingly in jeopardy. Human rights workers continued to pay with their lives for their devotion to the cause of justice.

36. On the fiftieth anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide, the international community had every reason to be ashamed of its failure to prevent the genocide in Rwanda in 1994 despite, inter alia, his own report on the situation to the Commission. Serious suspicions of genocide also attached to the former Zaire, currently the Democratic Republic of the Congo, where a joint mission appointed by the Commission had been prevented from carrying out its work in May 1997. The task of the current investigating team was being impeded by the recent disappearance of witnesses.

37. He had visited Sri Lanka at the Government's invitation in August-September 1997. The armed conflict in one part of the country provided no justification for violations of human rights and international humanitarian law or emergency measures whose impact was felt most severely by the civilian population. While the Government's efforts to address the situation deserved encouragement and support, more effective action was needed to come to terms with the past and to meet the challenge of establishing peace with justice.

38. The situation in Algeria, where civilians continued to be massacred, was complicated by the establishment of self-defence groups. He felt there was an urgent need to visit the country and report his findings to the Commission but, despite the invitation that had been pending since November 1993, he was still waiting for the Government to propose dates for a visit.

39. All States must establish effective machinery to prevent massacres of their citizens and must ensure that the perpetrators of such acts were prosecuted. He referred in that connection to the 45 members of the indigenous population massacred in Chiapas, Mexico, in December 1997 by a paramilitary group.

40. Mexico, China and Turkey had failed to respond to his requests to be allowed to visit them since 1992 and India since 1993. Cambodia, Papua New Guinea, Romania and Yemen had failed to reply to his communications for three years and the Democratic Republic of the Congo, Nepal and Pakistan for two years. The Government of Yugoslavia had not acceded to his request for a visit following the recent events in Kosovo.

41. He had been invited to visit the United States of America in September-October 1997 to study questions related, in particular, to the death penalty and deaths due to excessive use of force by the police. Although the death penalty was not yet prohibited by international law, its use was subject to numerous restrictions, especially under the International Covenant on Civil

and Political Rights and the Convention on the Rights of the Child. A State's federal structure or the will of the people could not be invoked to justify failure to respect internationally accepted standards in such a crucial area.

42. Despite the deservedly fine reputation of the American criminal justice system, certain facts could not be ignored and amply warranted the moratorium on executions requested by Commission resolution 1997/12. He particularly regretted that the de facto moratorium since 1984 on the execution of women had twice been violated in 1998 and that a Paraguayan citizen had been executed that very morning despite an unprecedented judgement by the International Court of Justice in favour of a stay of execution.

43. Mr. MOOSE (United States) said that the United States had played a prominent role in the establishment of the special rapporteur system and had welcomed visits by special rapporteurs. His delegation was disappointed, however, at the results of the visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions, whose report was severely flawed, despite meetings with policy makers in the Departments of State and Justice, and experts on capital punishment, the prison system and deaths in police custody.

44. United States use of the death penalty was not a violation of international law since capital punishment was not prohibited by customary international law when international standards of due process were fully protected, as they were in the United States. The report had omitted material on the procedural processes against miscarriage of justice which had evolved over 200 years under a constitution noted for its strong protections of a broad range of civil liberties.

45. The Special Rapporteur should focus on his primary mandate of carrying out investigations in countries where summary, extrajudicial and arbitrary executions were a serious problem rather than reviewing the establishment of and adherence to standards for capital punishment. The United States judicial system provided an exhaustive system of protections to ensure that the death penalty was not applied in an extrajudicial, summary or arbitrary manner. Moreover, his country was not a party to any treaty prohibiting the death penalty.

46. The report also failed to mention the mechanisms in the criminal justice system to deal with cases of deaths in police custody, although the Special Rapporteur had met Department of Justice officials working in that area. The mechanisms had proved effective in bringing such incidents to light and in bringing offenders to justice.

47. To ensure that the Commission received a fuller and more balanced picture of how United States legal processes worked to protect the rights of defendants, a written response to the Special Rapporteur's report would be provided. The United States would continue to support the special rapporteur system but insisted that its work should be accomplished in a responsible manner.

48. Mr. GARRETÓN (Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (former Zaire)), introducing his report (E/CN.4/1998/65), said that, following the former dictator Mobutu's reluctant establishment of the National Sovereign Conference and the wholly avoidable war in which Mobutu had hoped to rally the people to his cause, hopes for the new regime had been high. It had had the historic opportunity of making a real commitment to democracy; unfortunately, it had not done so.

49. On the contrary, the victorious forces of the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) had perceived enemies round every corner. The report dealt both with the last months of the Mobutu Government and the current situation, where President Kabila and the AFDL, constituting effectively a one-party State, had sanctioned arbitrary detention and many other abuses. The east of the country was still at war and the situation was deteriorating, with confrontations between the army and various armed groups.

50. He highlighted five aspects of the report, beginning with assaults on the right to life committed by the new Congolese Armed Forces, the police and members of the AFDL. Although the new Government had rightly asserted that senior officials of the previous regime were not being murdered, they had been imprisoned and their property confiscated. Other people linked with the regime, particularly if they were Hutu or Bembe, had been killed, tortured or disappeared. Cursory trials were conducted by military courts and death sentences were being imposed with increasing frequency, even on pregnant women and children under 18 years of age.

51. Political parties had been denied freedom of association, ostensibly to prevent the country falling into chaos. That explanation was unacceptable to any democrat. Many activists had been imprisoned and tortured, while others had been tried and sentenced by the military court on the dubious grounds that the President had not yet formally declared an end to the war.

52. Human rights organizations also faced huge difficulties; their work demanded as much heroism as during the Mobutu dictatorship. There had been a ray of hope when the Ministry of Justice had announced that it would work together with the NGOs but, over the last few days, Floribert Chebeya had been attacked in his home and the annual report of the Zairian Association for the Protection of Human Rights had been seized before publication.

53. Freedom of opinion and expression was under attack following the detention of numerous journalists, suppression of newspapers and attacks on their premises. The Minister of Information defended such action on the grounds that newspapers should not be defamatory.

54. The public had no faith in the democratization process and was not participating in it. The Constitutional Commission was composed of the President's men and its draft constitution, ignoring the agreements at the National Sovereign Conference of 1992, left the President with supreme power. The constituent assembly was to be elected but was likely to be packed.

55. The Special Rapporteur had been confronted with an even more aggressive attitude than that shown by the previous Government. He had received no

response to the cases that he had transmitted nor received authorization to visit the country. A more emollient note verbale had given rise to some hope, with the admission for the first time that the country had some human rights difficulties. The Government should not see the Special Rapporteur as an enemy and should remember that a democratic society could be built only collaboratively.

56. Introducing the report on allegations of massacres and other human rights violations occurring in eastern Zaire (now the Democratic Republic of the Congo) since September 1996 (E/CN.4/1998/64), prepared by himself, by the Special Rapporteur on extrajudicial, summary or arbitrary executions and by a member of the Working Group on Enforced or Involuntary Disappearances, he said that, although the AFDL had regrettably refused permission to visit the area, the joint mission had been able to hear testimony in Geneva and in Rwanda. There had been serious violations of international humanitarian law by all parties. The acts were such that the joint mission considered them crimes against humanity, which should be brought before an international court. Owing to the impossibility of visiting the area, it was unable to determine whether they were also crimes of genocide, although it was noteworthy that most of the victims were Bahutu.

57. The setting up of the joint mission had been yet another step forward in the evolution of the Commission's human rights machinery, since it brought together three of the Commission's mechanisms. The special rapporteur procedure was one of the most effective within the United Nations system, since it was not subject to ratification or reservations by States, or based on reports submitted by States. It was the system that gave States the most cause for concern and their victims the greatest hope. For a special rapporteur to do his job properly, however, he had to be completely independent and have freedom of movement, freedom to choose his witnesses with no outside interference and freedom to express his opinions. It was also important that his safety and that of his associates and witnesses was guaranteed.

58. Mr. GROTH (Special Rapporteur on the situation of human rights in Cuba), introducing his report (E/CN.4/1998/69), said that, as indicated in paragraph 67, there had been no significant change, although prison sentences tended to be less harsh than in previous years. There were still many cases of individuals - human rights and political activists, trade unionists and journalists - being subjected to harassment by the authorities, as detailed in paragraphs 17-57. He paid tribute to those who risked their safety by providing information to the United Nations.

59. Paragraphs 58-60 examined prison conditions, which remained deplorable. The report also considered (paras. 6-13) the Fifth Communist Party Congress which had held out little hope of significant change, and the elections for deputies to the National Assembly of People's Power and the Provincial Assemblies, vitiated as they were by the fact that there had been only one candidate for each seat.

60. The economic system of the country meant that the enjoyment of economic and social rights had suffered. The decision by the United States of America to relax some aspects of the embargo was therefore to be welcomed and he

trusted that the United States Congress would shortly remove the remaining obstacles to the sale of food and medicine to Cuba as a first step to lifting the embargo completely.

61. His Holiness the Pope had spoken out in favour of greater respect for human rights and an end to the isolation of Cuba. In that connection, the release of a significant number of political prisoners had been a welcome, if largely symbolic, gesture. There could be no talk of real improvement, however, while the four individuals named in paragraph 35 remained in detention and he urged the Government of Cuba to release them immediately.

62. Mr. AMAT FORÉS (Cuba) said that his delegation would be indifferent to the increasingly useless exercise of examining human rights in Cuba but for its implications for the credibility of the Commission. The report was simply yet another form of aggression masterminded by the United States of America, which used the Commission shamelessly. A report by the Commission in 1988 had made it clear that the establishment of a special procedure for Cuba was unnecessary, but the United States had instigated the appointment of a Special Representative of the Secretary-General who had subsequently become a Special Rapporteur. Ever since, the Special Rapporteur had been a tame instrument of the United States and his report was virtually a copy of that of the State Department, interfering in the sovereignty of the Cuban people.

63. There had never been any practices in Cuba of torture, enforced disappearances, extrajudicial executions, political assassinations or convictions for offences that had not previously been provided for in the penal legislation, nor had a defendant ever been denied a fair trial, despite allegations in slanderous radio programmes sponsored by the United States.

64. The Constitution had been adopted by 97.7 per cent of the votes cast in a referendum in which 98 per cent of the registered voters had participated. Cuba's democracy was effective because it was sustained by the genuine participation of its people.

65. In spite of the blockade, the country's social indicators continued to improve. Its infant mortality rate was the lowest in Latin America and among the 25 lowest in the world. The World Health Organization (WHO) had acknowledged that Cuba had already reached the health standards targeted for the year 2000.

66. His country was open to international cooperation in the field of human rights, so long as it took place on a fair basis. It cooperated with the relevant treaty bodies and with the Commission's various thematic procedures. It could not, however, accept the selective and discriminatory treatment of an warranted special procedure serving the blind policy of a single country against Cuba, whose freedom to choose its own destiny should be respected.

67. Mr. SORABJEE (Special Rapporteur on the situation of human rights in Nigeria), introducing his report (E/CN.4/1998/62), said that he had received no response to his four communications requesting official approval from the Government of Nigeria for a fact-finding mission or to his request for

information regarding the human rights situation there. His report, therefore, was based on the recommendations of the Secretary-General's fact-finding mission to Nigeria and the other sources listed in its paragraph 18.

68. Analysis of the information revealed that, despite some positive changes made by the Nigerian Government, there were extensive violations of basic human rights. Nigeria was ruled by military decrees which did not recognize the jurisdiction of the courts. Consequently, there was no effective legal protection for human rights, the independence and authority of the judiciary were being consistently undermined, and there was a conspicuous absence of due process in criminal trials.

69. The practice of detaining relatives of Nigerians living in exile, known as hostage-taking, was prevalent. Because of the regime's sensitivity to criticism, freedom of expression and of the press were severely curtailed, the passports of persons intending to participate in international conferences had been seized and persons who had criticized Nigeria abroad were arrested on their return.

70. A positive measure taken by the Nigerian Government was the establishment of the Nigerian Human Rights Commission. However, its jurisdiction must be expanded to cover all cases of violations of human rights and its Chairman and members should be granted security of tenure. Another step forward had been the establishment of a Ministry for Women's Affairs and a growing awareness of the importance of women's rights, including their participation in the political process. Yet another welcome step had been the establishment of the National Child Rights Implementation Committee and the preparation of a National Plan of Action.

71. Although certain measures had been adopted to implement the programme of transition to civilian rule, the limitations on political parties and the absence of any dialogue with the opposition gave rise to serious misgivings concerning the Government's genuine commitment to the restoration of democracy. Release of all political prisoners and others detained without charge or trial would be a confidence-building measure that would lend credibility to the transition process. Restoration of the rule of law and democracy, in substance as well as in name, would be evidenced by the restoration of the institutions essential to democracy: an independent judiciary, a free and responsible press and an opposition able to function freely and where citizens could express dissent without fear.

72. Mr. Selebi (South Africa) resumed the Chair.

73. Ms. GONZALEZ FERRER (Federation of Cuban Women) said that the unlawful economic, commercial and financial blockade imposed unilaterally against Cuba represented an act of State violence against women and a permanent violation of their human rights. Life for the Cuban family had been difficult in the years since the collapse of the Socialist bloc, and Cuban women were the ones who had suffered the most from the reinforcement of the United States blockade. There was no reason whatsoever to blockade Cuba, just as there was no reason to maintain a Special Rapporteur. Despite the difficult conditions, the Government had conducted a systematic policy in pursuit of the development

of its people with the advancement of women as one of its main objectives. While the Cuban people did not pretend to be a model, they did demand the right to freedom and independence and to choose their own form of government.

74. Mr. CHAKMA (Asian Cultural Forum on Development), said he cautiously welcomed the Chittagong Hill Tracts Peace Treaty signed between the Government of Bangladesh and the Jana Samhati Samiti in December of 1997. The challenge would be to implement that agreement and to establish a durable peace. The number of arrests and detention and the violence by vigilante groups did not, however, increase confidence in the prospects. He called on the Commission to urge the Government of Bangladesh to bring an end to the reign of terror and lawlessness in the region.

75. There was also concern about the forcible deportation by the Malaysian Government of Acehnese asylum-seekers. He urged the Government of Malaysia to end the refoulement of those asylum-seekers and allow access by UNHCR to the detention centre in which they were being held.

76. Mr. SALIH (Arab Organization for Human Rights) said that, unfortunately, torture was still practised in many places in the Arab world. He welcomed the fact that two further Arab countries had signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, although the reservations they had entered made their adherence essentially meaningless. Over half the countries in the Arab world had not yet adhered to the Convention and his organization called upon the Commission to adopt a resolution urging universal adherence thereto.

77. It was also unfortunate that states of emergency were in force in many Arab countries. In Libya, collective punishments had been imposed, while the press was strictly controlled in Jordan and Sudan imposed severe restrictions on the political opposition. There were also significant violations of the right to life, as in the case of students in southern Sudan who had refused military conscription and had been shot as they attempted to leave the centre.

78. Egypt and Algeria were endeavouring to address the problems caused by the activities of armed Islamist groups, but their actions had not helped to resolve the situation. In Egypt, civilians had been tried by military courts. There was great concern regarding the failure of the Algerian authorities to protect the people from armed groups and to agree to an international investigation of the situation.

79. An end to the sanctions against Iraq would help to improve the human rights situation of the Iraqi people by allowing international attention to focus on the human rights violations occurring there. The embargo against Libya should also be lifted, as the International Court of Justice was the appropriate instance to deal with that dispute.

80. Finally, he drew attention to the situation of the Palestinian people who were suffering human rights violations at the hands of the Israeli authorities. Over 3,500 persons were being held in administrative detention without charge, and there were reports of extrajudicial killings and ill-treatment by the Israeli authorities. Complaints of abuses committed by the Palestinian Authority must also be thoroughly investigated.

81. Mr. KHAN (International Progress Organization) said that recent developments in Pakistan showed that the country's leaders had not yet shaken off the legacy of its dictatorial past. Although democracy had been established in Pakistan, the people had not yet benefited from its fruits. Prospects were darkened, moreover, when national leaders asserted that democracy was not meant for Pakistan. There was a disturbing trend towards a return to the former feudal structure.

82. Democracy, as the world understood it, demanded constitutional and legal equality for all citizens, but the highest political offices in Pakistan were reserved for members of the majority community. Christians, Hindus and Ahmediyas were subjected to discrimination, but religious bigotry had grown to such an extent that minority Muslim sects also felt threatened. Feudalism, police brutality, extrajudicial killings, religious persecution, the oppression of women and legalized State terrorism were some of the factors that were working to marginalize Pakistani society.

83. Mr. REQUESENS (International Federation of Action by Christians for the Abolition of Torture (ACAT)) said that, while welcoming the efforts made by the Government of Peru to correct some of the measures imposed during the period of political violence, he was concerned by the fact that some emergency measures appeared to have become irreversible. Thus, the Amnesty Act of 1995 granted impunity to members of the armed forces and police with regard to serious violations of human rights, including the rape of women in detention and the torture and maltreatment of over 77 per cent of pre-trial detainees. Amnesty for such excesses, which ran counter to the International Covenant on Civil and Political Rights, would not promote national reconciliation. There was also concern that persons convicted of terrorism were being held in conditions well below United Nations standards in Challapalca Prison, and the Commission should urge the Government of Peru to close that place of detention.

84. The deterioration of the human rights situation in Colombia remained a matter of concern and the Office of the High Commissioner for Human Rights in Bogota should be strengthened. There had also been an increase in the practice of torture in Mexico against persons suspected of membership of armed groups. He called for the immediate implementation of the recommendations of the Special Rapporteur on the question of torture in that regard.

85. Ms. MOYA (American Association of Jurists) said that, although the Government of Mexico had met NGOs and journalists to explain its position with regard to the situation in Chiapas, it continued to reject the efforts of international observers to investigate the situation on the ground. The continued presence of significant military forces and paramilitary groups in the area was a matter of great concern. The Mexican Government must comply with agreements and guarantee the human rights of its own people in order to avoid an escalation of violence that would affect Mexican society as a whole.

86. The situation of the judiciary in Peru could not be worse. The members of the National Council of Justice had recently resigned en masse in protest against the brutal curtailment of their jurisdiction. The situation had come to such a pass that the World Bank, which was financing projects to modernize

the judiciary in various countries throughout the world, had decided to withdraw the funding intended for Peru. The situation in the prisons constituted a violation of basic human rights.

87. In Bolivia, armed confrontations between special units of the armed forces and peasant groups in the Chaparé region had resulted in seven deaths and six peasant disappearances. The protest had been sparked off by a reduction in the compensation promised by the Government in exchange for the eradication of the coca crop.

The meeting rose at 1 p.m.